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10/590,002	07/09/2007	Joseph Deutsch	U 016454-5	7085
140 7590 07/11/2011 LADAS & PARRY LLP 1040 Avenue of the Americas NEW YORK, NY 10018-3738				
EXAMINER				
WYCHE, MYRON				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

nyuspatactions@ladas.com  
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### Office Action Summary

**Application No.**

10/590,002

**Applicant(s)**

DEUTSCH ET AL.

**Examiner**

MYRON WYCHE

**Art Unit**

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 March 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 40-47, 49-51, 62, 64-73, 76-78, 83 and 84 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 40-47, 49-51, 62, 64-73, 76-78, 83 and 84 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/25/10
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 40-47, 49-51, 62, 64-73, 76-78, 83, 84 have been considered but are moot in view of the new ground(s) of rejection.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 10/25/10 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 40 - 44, 46 - 48, 50-51, 68-73 and 83 rejected under 35 U.S.C. 103(a) as being unpatentable over by US Patent Application Publication No. 20060031297 (Zuidema) in view of US Patent Application Publication No. 20050075093 (Lei et al).

Regarding claims 40 and 83, Zuidema discloses: "receiving a prepared MMS message from a creator of the prepared MMS message, the MMS message being

associated with, or including, an item of content" (**ABSTRACT: "multimedia message", "receiving the message containing the content item from a sender"**); "applying personalized metadata to the prepared MMS message" (**ABSTRACT: "if the absence of a watermark has been detected, \*causing a watermark to be embedded in the content item"**)).

However, Zuidema does not clearly disclose the remaining limitations of the claim. To that end, Lei et al. discloses: "applying personalized metadata to the prepared MMS message for at least one targeted recipient according to preferences of the at least one targeted recipient, thereby producing a personalized MMS message and the personalized metadata including metadata determining a personalized presentation-format of at least a portion of the the item of content for display by the at least one targeted recipient in the personalized presentation-format" (**FIG. 4: 407-412; [0023], [0052]**) and "transmitting the personalized MMS message to the at least one targeted recipient" (**FIG. 4: 413; [0052]-[0053]**). It is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Zuidema with Lei et al. in order to provide a source of MMS messages.

Regarding claim 68, Zuidema discloses: "a dispatcher processor to: receive a prepared MMS message which is associated with, or includes, an item of content (**ABSTRACT: "multimedia message", "receiving the message containing the content item from a sender"**; **FIG. 6: 601, 610; [0037]: "A message is received by receiver component 610"**); and "to apply personalized metadata to the MMS message for at least one targeted recipient according to preferences of the at least one targeted

recipient, thereby producing a personalized MMS message (**ABSTRACT: “if the absence of a watermark has been detected, \*causing a watermark to be embedded in the content item”**); and “a dispatcher transmitter operatively controlled by the dispatcher processor to transmit the personalized MMS message to the at least one targeted recipient” (**FIG. 6: 651; 510, 410, 130; [0038]**).

In addition, Lei et al. discloses, the personalized metadata including metadata determining a personalized presentation-format of at least a portion of the item of content for display by the at least one targeted recipient in the personalized presentation format; and then (**FIG. 1: 11-1, 11-2, 14, 15, 130; FIG. 4: 401; [0021], [0049]; FIG. 4: 407-412; [0023], [0052]**).

With respect to claims 41 and 69-71, Lei et al. discloses: “the preferences of the at least one targeted recipient comprise preferences related to content” (**FIG. 1: 140; FIG. 4: 407-412; [0023]: “version of content to be provided to a user ... may be selected by user preference”**).

Regarding claims 42, Lei et al. discloses: “the MMS message comprises at least one of the following: content; at least one link to content; and at least one pointer to content (**[0020]: “link”; [0034]: “content”**).

With respect to claim 43, Lei et al. discloses: “said content comprises at least one of the following: text; video; a stills image; audio; a software attachment; and bundled multimedia (**[0020]: “video or audio content”**).

Regarding claim 44, it is respectfully submitted that the disclosure by Lei et al. of video content, as discussed in the rejection of claim 4 above, inherently discloses: “at

least one of the following: pop-up multimedia; and animated multimedia” ([0020]: “**video or audio content**”).

Regarding claim 46, Lei et al. discloses: “personalized metadata comprises at least one indicator of at least one of the following: the creator of the MMS message; a provider of at least some content comprised in or associated with the MMS message; an MMS message title keyword; sponsorship of at least some content comprised in or associated with the MMS message; cost of at least some content comprised in or associated with the MMS message; a category in the MMS message; a rating of the MMS message; a duration of at least some content comprised in or associated with the MMS message; a creation time of the MMS message; a validity period of the MMS message; a genre of the MMS message; details of a performer performing in at least some content comprised in or associated with the MMS message; and a type of content comprised in or associated with the MMS message ([0020]: “**video or audio content**”; [0048]: “**content provider servers**”).

With respect to claim 47, Lei et al. discloses: “the obtaining comprises obtaining the MMS message from at least one of the following: a content provider; and a user (FIG. 1; FIG. 4: 401; [0020]: “**video or audio content**”; [0021]; [0048]: “**content provider servers**”; [0049]).

Regarding claim 48, Lei et al. discloses: “the personalized metadata comprises metadata determining a personalized format of presentation of the MMS message” (FIG. 4: 407-412; [0023], [0052]).

With respect to claim 50, Zuidema discloses: “receiving the personalized MMS

message at a communication appliance of the at least one targeted recipient"

**(ABSTRACT: "multimedia message", "receiving the message containing the content item from a sender").**

With respect to claims 72 and 73, respectively, Lei et al. discloses: "the dispatcher transmitter comprises a cellular telephone transmitter and a mobile operator base station" (**FIG. 2B: 11-1, 11-3, 201**).

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zuidema in view of Lei et al. and US Patent Application Publication No. 20040111476 (Trossen et al.).

Claim 45 is dependent upon claim 43. As discussed above, claim 43 is disclosed by Zuidema and Lei et al. Thus, the limitations of claim 43 that are recited in claim 45 are also disclosed by Zuidema in view of Lei et al. and Trossen et al.

However, Zuidema and Lei et al. does not clearly disclose the remaining limitations of claim 45. To that end, in the same field of endeavor, Trossen et al. discloses: "the bundled multimedia comprises at least one of the following: Shockwave TM multimedia; Flash TM multimedia; a synchronized multimedia integration language (SMIL) file; and a simple animation format (SAF) file" (**[0044]: "SMIL"**). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Zuidema Lei et al. with Trossen et al. in order to provide the capability to handle popular multi-media formats.

Claims 49, 62, 64-67, 76-78 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zuidema and Lei et al. in view of US Patent Application Publication No. 20040198279 (Antilla et al.).

Claim 49 is dependent upon claim 48. As discussed above, claim 48 is disclosed by Zuidema and Lei et al. Thus, the limitations of claim 49 that are recited in claim 48 are also disclosed by Zuidema and Lei et al.

However, Zuidema and Lei et al. does not clearly disclose the remaining limitations of claim 49. To that end, in the same field of endeavor, Antilla et al. discloses: "the personalized format of presentation of the MMS message comprises at least one of the following: a personalized icon based format; and a personalized menu based format" (**FIG. 2**). It is respectfully submitted that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lei et al. to include the display system of Antilla et al. in order to make the device more user friendly.

With respect to claims 62 and 84, Zuidema discloses: "receiving the personalized MMS message by the communication appliance; then processing personalized metadata associated with the personalized MMS message by the communication appliance (**ABSTRACT: "multimedia message", "receiving the message containing the content item from a sender", and "if the absence of a watermark has been detected, \*causing a watermark to be embedded in the content item"**)".

In addition, Lei et al. discloses: "to generate personalized parameters determining a format of presentation of at least a portion of content comprised in or



associated with the personalized MMS message; then" (FIG. 1: 12-1, 12-2, 130, 15, MMS-123; [0021]-[0025]; FIG. 4: 413; [0052]-[0053]).

Further, Antilla et al. discloses: employing at least some of the personalized parameters by the communication appliance to create a personalized structure of the ECG; and displaying the personalized ECG by the communication appliance (FIG. 2).

With respect to claim 64, Antilla et al. discloses: "enabling a user to view the at least a portion of content comprised in or associated with the personalized MMS message (FIG. 2). Lei et al. discloses: "an indication of agreement by the user to pay for viewing the at least a portion of content" ([0043]: "pay for MMS message download").

With respect to claim 65, Antilla et al. discloses: "enabling a user to listen to the at least a portion of content comprised in or associated with the personalized MMS message (FIG. 2). Lei et al. discloses: "an indication of agreement by the user to pay for listening to the at least a portion of content ([0043]: "pay for MMS message download").

With respect to claim 66, Antilla et al. discloses: "said format of presentation comprises at least one of the following: an icon based format; and a menu based format (FIG. 2).

Regarding claim 67, Antilla et al. discloses: "said format of presentation comprises a format of presentation adapted for performance of selections from the at least a portion of content comprised in or associated with the personalized MMS message" (FIG. 2).

Regarding claim 76, Zuidema discloses: "a receiving element to receive the

personalized MMS message; a processor to: process personalized metadata associated with the personalized MMS message (**ABSTRACT: "multimedia message", "receiving the message containing the content item from a sender", and "if the absence of a watermark has been detected, \*causing a watermark to be embedded in the content item"**).

Lei et al. discloses: "to generate personalized parameters determining a format of presentation of at least a portion of content comprised in or associated with the personalized MMS message (FIG. 1: 11-1, 11-2, 14; FIG. 4: 401; [0021], [0049]; FIG. 4: 407-412; FIG. 1: 12-1, 12-2, 130, 15, MMS-123; [0021]-[0025]; FIG. 4: 413; [0052]-[0053]; [0023], [0052]; FIG. 2B: 11-1, 11-3, 201).

Antilla et al. discloses: "using the-personalized parameters in an ECG" and ), and then to employ at least some of the personalized parameters to create a personalized structure of the ECG; and an on-screen display unit to display the personalized ECG (FIG. 2).

Regarding claims 77 - 78, Lei et al. discloses: "a cellular telephone comprising the apparatus of claim 77 and a set-top box (STB) comprising the apparatus of claim 78, respectively ([0010]).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MYRON WYCHE whose telephone number is 571-272-3390. The examiner can normally be reached on Monday-Friday, 8 a.m. to 5 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on 571-272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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June 30, 2011